REMARKS

Initially, in the Office Action dated November 16, 2004, the Examiner notes that if Applicants desire to obtain the benefit of priority under 35 U.S.C. §119(a)-(d), that a translation of the foreign application should be submitted. Claims 1-4, 6, 8-12, 16-20, 22 and 24-27 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,665,690 (Kimura et al.). Claims 5, 7, 13, 15, 21, 23 and 29 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Kimura et al. in view of U.S. Patent No. 6,014,755 (Wells et al.).

By the present response, Applicants have amended claim 8 to further clarify the invention. Claims 1-29 remain pending in the present application.

Examiner Interview

Applicants' representative contacted the Examiner on January 26, 2005 in an attempt to set up an Examiner interview. The Examiner informed Applicants' representative that his schedule for the entire month of February was full and that the earliest available date that he had for a personal interview would be March 15, 2005. Applicants fail to understand the Examiner's unavailability for such a long period of time, and since his available date would cause Applicants to incur an extension of time fee, the present response is being submitted without having had an opportunity to a personal interview.

35 U.S.C. §102 Rejections

Claims 1-4, 6, 8-12, 16-20, 22 and 24-27 have been rejected under 35 U.S.C. §102(e) as being anticipated by Kimura et al. Applicants have discussed the

deficiencies of Kimura et al. in Applicants previously filed response and reassert all arguments submitted in that response. Applicants respectfully traverse these rejections and provide the following additional remarks.

Applicants submitted appropriate arguments in Applicants' previously filed response distinguishing the limitations in the claims of the present application over the cite reference. However, the Examiner has failed to address any of Applicants' arguments but has simply responded in the present Office Action with the same arguments submitted in the Office Action dated March 16, 2004. This is inappropriate and does nothing to help advance prosecution of the present application.

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 U.S.P.Q.2d (BNA) 1429, 1431 (Fed. Cir. 1997). The identical invention must be shown in as complete detail as is contained in the . . . claim. Richardson v. Suzuki Motor Co., 868 F.2d 1226,1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); M.P.E.P. §2131. The elements must be arranged as required by the claim. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); M.P.E.P. §2131. It is respectfully submitted that the Examiner has not met the required legal burden as set forth by the courts to substantiate valid rejections under 35 U.S.C. 102(e).

According to the present invention, there is provided a first processing mode in which a replacement processing to replace a sector is performed in response to an error which takes place in the sector as shown in lines 1-9 of page 2, a second

processing mode in which such replacement operation is not performed even when such an error exists, as shown in lines 1-4 of page 3, lines 18-23 of page 18 or the like, and a file converting function by which a file type for the first processing mode is converted to another file type for the second processing mode, as shown in the description at page 13, line 1 - page 14, line 14.

In contrast, Kimura et al. discloses two kinds of data, i.e., AV-data and PC-data. As seen from column 1, line 22, AV-data just means audio and video signals, and from the description at col. 344, line 67 – col. 35, line 4, PC-data only indicates data output from a personal computer. Kimura et al. fails to disclose file types of these data which are changeable between operating modes. In contrast to Kimura et al., in the present invention, as described from page 13, lines 1-17, it is possible to perform different operation to files according to the mode selected. In other words, according to embodiments of the present invention, file type can be changed according to the operating mode selected. Further, Wells et al. fails to disclose any feature regarding file conversion, such as shown in the present invention. With respect to the Examiner's comments on newly added claim 28, the "identification information" in column 12, lines 10-22 of Kimura et al. just shows identification of length of the unit, and does not denote "mode" in the present invention.

Therefore, regarding claims 1, 8, 9, 16, 17 and 24-28, Applicants submit that Kimura et al. does not disclose or suggest the limitations in the combination of each of these claims of, inter alia, reading a file type information associated with a file to be processed from a recording medium, converting the file type information

indicative of a first processing mode to a file type information indicative of the second processing mode, writing the converted file type information in the recording medium as the file management information associated with the file, regarding a file type of a file to be processed as the second processing mode regardless of the file type and reading the data in the second processing mode, or converting the first file type of the data read from the recording medium to the second file type in response to existence of a part of the first file type. The Examiner asserts that Kimura et al. discloses converting a file type from the file type indicative of a first processing mode to a file type indicative of a second processing mode at col. 35, lines 1-7. However, as the Examiner states, this portion of Kimura et al. merely discloses converting PC data into data which can be read by a drive unit. This is not converting a file type information indicative of a first processing mode to a file type information indicative of a second processing mode, as recited in the claims of the present application. Kimura et al. relates to recording and reproducing different types of data including AV data and PC data on a disk type medium where the type of the recorded data determines the length of recording units used to record the data on the disk. These portions of Kimura et al. do not disclose or suggest anything related to a file type information. This portion of Kimura et al. merely discloses converting PC data into a form that can be read by a drive unit. This has nothing to do with a file type of the data, as recited in the claims of the present application. According to the present invention, it becomes possible to read the whole file even if there is a defective sector 217 within the file. The data reading operation can be performed in an AV-

mode regardless of the defection. On the contrary, in a PC-mode, data reading operation stops at a position of a defective sector, as shown in Fig. 2. The data reading operation is then carried out with converting a type of file from the PC-mode to the AV-mode (see page 13, line 1 – page 14, line 20 and Figs. 3 and 4). In contrast, Kimura et al. discloses both AV data and PC data outputted from the PC, but does not disclose any information on file types. Moreover, the converting operation in Kimura et al. does not relate at all to file type, as recited in the claims of the present application.

The Examiner further asserts that Kimura et al. discloses writing the file type information after the conversion in the recording medium as file management information associated with the file to be processed at col. 33, lines 40-67, and col. 34, lines 1-10. However, this portion of Kimura et al. merely discloses how a defect sector is dealt with and where write and verify operations are performed to confirm that a writing has been performed correctly. A detected defective sector is registered into a defect information table so that it is not used anymore and for data recorded as an allocation extent if a defective sector is detected, a number is placed in an allocation extent record. This portion of Kimura et al. does not disclose or suggest writing a converted file type information in the recording medium as the file management information associated with the file to be processed, as recited in the claims of the present application. This portion of Kimura et al. merely discloses how to store information regarding a defective sector. This portion of Kimura et al. does not disclose or suggest anything related to file type information or writing converted

file type information as file management information, as recited in the claims of the present application.

Regarding claims 2-4, 6, 10-12, 14, 18-20, 22 and 29, Applicants submit that these claims Applicants submit that these claims are dependent on one of independent claims 1, 9, 17 and 28 and, therefore, are patentable for the same reasons noted regarding these independent claims. For example, Kimura et al. does not disclose or suggest when judging data is not stored in the all in sectors of the ECC block, registering in the file management information a remaining sector in which the data of the file to be processed is not stored as a stuffing.

Accordingly, Applicants submit that Kimura et al. does not disclose or suggest the limitations in the combination of each of claims 1-4, 6, 8, 9-12, 14, 16, 17-20, 22, 24, 25-27, 28 and 29 of the present application. Applicants respectfully request that these rejections be withdrawn and that these claims be allowed.

35 U.S.C. §103 Rejections

Claims 5, 7, 13, 15, 21, 23 and 29 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Kimura et al. in view of Wells et al. Applicants have discussed the deficiencies of Kimura et al. and Wells et al. in Applicants previously filed response and reassert all arguments submitted in that response. Applicants respectfully traverse these rejections and provide the following additional remarks.

As noted previously, Applicants submitted appropriate arguments in Applicants' previously filed response distinguishing the limitations in the claims of the

present application over the cite reference. However, the Examiner has failed to address any of Applicants' arguments but has simply responded in the present Office Action with the same arguments submitted in the Office Action dated March 16, 2004. This is inappropriate and does nothing to help advance prosecution of the present application.

The ultimate determination of obviousness under §103 is a question of law. See, In re Leuders, 111 F.3d 1569, 1571, 42USPQ2d 1481, 1482 (Fed. Cir. 1997). The factual predicates underlying an obviousness determination include the scope and content of the prior art, the differences between the prior art and the claimed invention, and the level of ordinary skill in the art at the time of the invention. See, Monarch Knitting Mach. Corp. v. Sulzer Morat GmbH, 139 F.3d 877, 881, 45 USPQ2d 1977, 1981 (Fed. Cir. 1998).

To reject claims in an application under Section 103, an Examiner must show an unrebutted prima facie case of obviousness. See, In re Deuel, 51 F.3d 1552, 1557, 34 USPQ2d 1210, 1214 (Fed. Cir. 1995). In the absence of a proper prima facie case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent. See, In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). It is respectfully submitted that the Examiner has not met the required legal burden as set forth by the courts to substantiate valid rejections under 35 U.S.C. 103(a).

Applicants submit that these claims are dependent on one of independent claims 1, 9 and 17 and, therefore, are patentable for the same reasons noted

regarding these independent claims. Applicants submit that Wells et al. does not overcome the substantial defects noted previously regarding Kimura et al. For example, Applicants submit that none of the cited references disclose or suggest writing the data in an original recording area where the data would have been written without the replacement processing wherein the replacement processing and the reading step and writing step are carried out on a basis of an ECC block including N recording units (N: positive integer) termed as sectors.

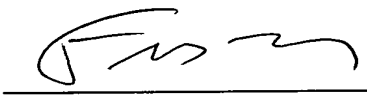
Accordingly, Applicants submit that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 5, 7, 13, 15, 21 and 23 of the present application. Applicants respectfully request that these rejections be withdrawn and that these claims be allowed.

In view of the foregoing amendments and remarks, Applicants submit that claims 1-29 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger & Malur, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. 500.40610X00).

Respectfully submitted,

MATTINGLY, STANGER & MALUR, P.C.



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